IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 764 OF 2005

Smt. Dulhanabi Malangsaheb Kokani .. Appellant

Vs.

Shri Gafursaheb Malangsaheb Kokani
and Ors. .. Respondents

Mr. S.M. Gorwadkar for the appellant.
Mr. R.D. Soni for Respondent Nos.16 to 18.

CORAM: B.H. MARLAPALLE, J.

Date : October 17, 2005.

P.C.:

1. Heard Mr. Gorwadkar, the learned counsel for the appellant-plaintiff.

2. In Special Civil Suit No.115 of 2004 the plaintiff had taken out an application at Exh.5 for temporary injunction and the same has been rejected by the impugned order dated 21/4/2004. It is thus clear that already more than one and half year's period has gone by after the impugned order was passed and it is also stated that the plaintiff had filed Regular Suit No.617 of 2001 which she had withdrawn before she went in the second round before the trial court. As far as

defendant nos. 13 to 15 are concerned, the trial court noted that they are running a petrol pump in part of the suit property and if the plaintiff succeeds in establishing her definite share in the joint family property, her claim would be met in terms of compensation. As far as defendant nos.16 to 18 are concerned, it is pointed out that the suit land in Survey No.495 has been divided in 50 plots and 47 of them have already been sold by way of sale deeds or agreements for sale. Admittedly, the plaintiff's share in the joint family property as answered in the affirmative by the trial court for prima facie consideration can be ascertained or quantified only on trial of the suit and not at this stage. In these obtaining circumstances, there is no reason to disturb the impugned order.

3. The appeal is, therefore, disposed of by directing expeditious trial of Special Civil Suit No.115 of 2004.

(B.H. Marlapalle,J.)